



Zoning, Permits, and Licenses for Cultural Businesses

The Mayor's Office of Cultural Economy
CITY OF NEW ORLEANS
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ZONING 101

In this section, you will find the basics of the purpose of zoning; the definitions of common terms such as permitted use, variances, and more; how to find the zoning designation of your business; a brief overview of the application processes; and links and an overview on accessing the Comprehensive Zoning Ordinance online.

WHAT IS ZONING?

Zoning is how legislative bodies and commissions, like the New Orleans City Council and the City Planning Commission, plan how parcels of land throughout a city can be used. It is both a regulatory tool and a development tool, allowing the City to plan the placement of assets like housing, shopping centers, and industrial areas and keep those areas in balance.

Groups of parcels are placed in various zones, such as Residential, Commercial, and Industrial. Through law, the permitted, conditional, accessory, and prohibited uses of land within each of the zone types is listed. Essentially, zoning is a tool that determines what you can build and do on land throughout a city or parish.

HOW DOES ZONING AFFECT MY BUSINESS?

Before you buy or rent a property with the intent of doing business, you should always check the zoning designation of that property. Starting a business whose activities are not a permitted use in the zone without getting a conditional use or an occupational license; or introducing a new use, like Live Entertainment, to your existing business without checking the zoning or obtaining the needed zoning adjustments and permits is not recommended as a way to deal with zoning restrictions.

Before you can get an Occupational License and Mayoralty Permit (like an Occupancy Permit) from Revenue, the City checks your address/parcel and determines if your proposed use of the property is allowed in that neighborhood based on its zoning designation. A use is the activity you will be conducting on the premises. Live Entertainment is a use, as is Restaurant, Cocktail Lounge, Nightclub, Flea Market, Green Market, etc.

ZONING DEFINITIONS

PERMITTED USES: These are uses within a zoning district that are allowed, with some standard exceptions, without having to request a conditional use, non-conforming use, or variance. Examples of uses include: single-family homes, hotels, cocktail lounges and bars, restaurant, sidewalk café, car washes, etc. The definition of individual uses and standards are included in the City's [Comprehensive Zoning Ordinance \(CZO\)](#) and can vary from city to city.

ACCESSORY USES: An Accessory Use is an additional activity (use) that is separate from the Permitted Use of a property, but is also supplementary use to the main, permitted use of the property. An Accessory Use is a necessary or usual activity that is necessary to or commonly paired with the Permitted Use.

For example, a detached garage may be accessory to the residential use of a property because it is reasonably related to the principal use (as a place to store a personal car) but does not eclipse it (the property is not going to turn into a parking garage without a residence).

For commercially zoned properties, the storage of products for a retail establishment can be an accessory use as having stock on hand is necessary to conduct business. Often, though, the volume or area of storage may be limited by the CZO so that the principal use (retail) is not eclipsed by storage, which would make the property a warehouse.

CONDITIONAL USES: These are uses that are compatible with the Permitted Uses in a zoning district, but these uses may have effects that need to be mitigated in order for the use to be wholly compatible with the surrounding properties in the zone. For example, bars are often listed under Conditional Uses in the CZO because consumption of alcohol on a property can have effects on surrounding properties (intoxicated patrons can trespass or litter; late hours can affect near-by residents, etc.).

In order to obtain a permit for a Conditional Use and an Occupational License for that business, the business owner or property owner must apply to the City Planning Commission and ultimately win approval of the New Orleans City Council. More information on the Conditional Use application process is addressed [below](#).

NON-CONFORMING USES: An applicant can request to use the land in a way that does not comply with the permitted, accessory, or conditional uses of the zoning ordinance, such as conducting commercial activity in a residential zone. You cannot request a non-conforming use for a property that has not already been granted a non-conforming use. You only apply if you wish to change the *existing* non-conforming use to another non-conforming use of the same or more restrictive classification. A non-conforming use that remains vacant/inactive for a continuous period of six months can no longer apply for a non-conforming use, but must adhere to the permitted, accessory and conditional uses of the zoning district. Non-Conforming Uses must also be consistent with the neighborhood surrounding the property and be providing a needed service for the neighborhood in order for the City Council to approve it.

In order to obtain approval for Non-Conforming Use, the business or property owner must apply to the New Orleans City Council through Safety and Permits and the City Planning Commission. More information on the Non-Conforming Use application process is addressed [below](#).

VARIANCES: Variances allow for an applicant to request an exemption from certain dimensional requirements for lots or buildings in a zoning district, such as requesting to have more parking spaces than allowed by the CZO or to exceed the allowed building height. However, the applicant must demonstrate a compelling hardship that makes the variance necessary.

In order to obtain a variance from the CZO, the business or property owner must apply to the Board of Zoning Adjustments (BZA). More information on the variance application process is addressed [below](#).

ZONING CHANGE: A property owner can request to change the zoning designation of his or her land. For example, a property owner who has a property zoned for Single-Family Residential who wishes to rent out a double shotgun home to two tenants may want to try to change that zoning designation to Two-Family Residential.

In order to obtain a zoning change, the property owner must apply to the City Planning Commission and ultimately win approval of the New Orleans City Council. More information on the Zoning Change application process is addressed [below](#).

MORATORIUMS: City Council members can impose a temporary prohibition on certain uses and/or the issuance of permits and licenses. These are moratoriums and they have a limited life span and require a majority

Council vote to come into effect. For example, a moratorium on the issuance of new Alcoholic Beverage Outlet licenses in a certain neighborhood (defined by specific street borders by the Council) is essentially a temporary prohibition on any use in that area associated with bars, liquor stores, etc.

Moratoriums cannot last more than 1 year. The Council can add up to two additional periods of 180 days to the 1 year for the purposes of agency review. After a moratorium has expired, the Council cannot institute the same or even a similar moratorium in the same geographic area for at least 1 year. The process for Moratoriums is codified in the City Charter, Section 3-126. See the Municipal Code Section [below](#).

OVERLAY DISTRICTS: These zoning districts literally are an additional zoning designation that overlays the primary zoning designation. For example, Frenchmen Street is zoned as Historic Faubourg Marigny Commercial with an overlay district of Arts and Cultural Overlay District. The Overlay District is usually for the purpose of carrying out a specific development goal, such as to promote new cultural uses in a particular neighborhood or encourage development along major urban streets.

When your business or property is in an Overlay District, you must look at both the overlay designation and the underlying designation in their respective sections of the CZO to get an accurate picture of the various uses and requirements in the district. An overlay usually keeps all the permitted uses of the underlying zoning district in place, but also enhances or adds to those uses to further its development goal. Overlay and other special districts can be found in [Article 10 of the CZO](#).

HOW DO I FIND THE ZONING DESIGNATION FOR MY PROPERTY?

The Zoning Base Maps can be found online on the City website: <http://www.nola.gov/RESIDENTS/City-Planning/Zoning-Base-Maps/>. **Scroll down to see the clickable map.** Maps can be selected and downloaded for viewing. The map is a visual representation of the zoning of all the parcels in the city.

However, the City strongly recommends that if you are looking for the zoning for a particular parcel that you contact Safety and Permits to determine the precise zoning designations that apply to your parcel at 504-658-7100 or through their website at <http://www.nola.gov/RESIDENTS/Safety-and-Permits/>.

APPLYING FOR CONDITIONAL USES, ZONING CHANGES, NON-CONFORMING USES, AND VARIANCES

CONDITIONAL USES AND ZONING CHANGES

- Guidelines for Conditional Uses can be downloaded here: <http://www.nola.gov/RESIDENTS/Safety-and-Permits/Brochures-and-Guidelines/>.
- Applications can be downloaded here: <http://www.nola.gov/RESIDENTS/City-Planning/Applications/>. Please note that the application is referred to as a Land Use Application. Applicants check off “Conditional Use” on the first page.
- Fee Schedule is on page 6 of the application and varies by project type, lot size, and other designations.
- Review Process (complete instructions are included on the application)
 - Applicant submits form and required attachments to the City Planning Commission and pays associated fees
 - The application is assigned a zoning docket number
 - The conditional use request is published in the newspaper and signs are posted in the vicinity of the property

- The CPC staff prepares a report of the conditional use request and forwards it to the applicant and the CPC
- A public hearing is held and the public is allowed to address any concerns and issues (usually takes place 6 weeks after a complete application is received)
- The CPC makes a recommendation on the application and forwards it to the City Council, who schedules a hearing date
- The Clerk of Council notifies speakers from the CPC public hearing and the applicant 10 days in advance of the Council hearing
- City Council Hearing
 - If approved, the City Attorney prepares an ordinance, which must be introduced
 - Before being voted on and adopted by the Council and signed by the Mayor, the ordinance must be laid over for 21 days
 - If denied, the process ends
- At this point, applicant works with CPC staff to adhere to any required site plans or restrictions attached to the approval of the conditional use or zoning change

NON-CONFORMING USES

- Applications can be downloaded here: <http://www.nola.gov/RESIDENTS/City-Planning/Applications/>. Guidelines are on the first page of the application.
- Fee: \$500.00
- Review Process (complete instructions are included on the application)
 - Request a “Letter of Verification” from Safety and Permits in City Hall, 7th Floor, Room 7E05 and bring in the filled-out application form
 - Safety and Permits issues the letter only if the applicant meets the qualifications (see definitions above)
 - Submit a “Change of Non-Conforming Use Request Letter to the Clerk of Council in City Hall, 1st Floor, Room 1E09
 - Submit a copy of the Request Letter to the City Planning Commission in 1340 Poydras St., Ste. 900, 9th Floor
 - The Executive Director of the CPC submits a written recommendation to the Council
 - The Council conducts a public hearing
 - The Council approves, denies, or modifies the request for Change of Non-Conforming Use
 - If approved, the applicant submits floor plans and a copy of the Motion of Approval to Safety and Permits within 30 days and continues with the regular permitting process

VARIANCES

- Applications can be downloaded here: <http://www.nola.gov/RESIDENTS/City-Planning/Applications/>. Guidelines are on the first page of the application.
- Fees: from \$150-\$250 based on project type (residential or commercial)
- Review Process (complete instructions are included on the application)
 - Filing deadlines are the first Monday of each month
 - Applicant sets up pre-application meeting with the staff of the Board of Zoning Adjustments. Call 504-658-7033 to make an appointment.

- Application and Attachments are submitted to Board of Zoning Adjustments
- The Applicant attends the monthly meeting at which her application is being addressed and answer any questions the Board asks; the public may also testify for or against the application
- The Board approves or denies the application for the variance
- Appeals to denials can be made to the Civil District Court

USING THE ONLINE CZO

All of New Orleans' codes, ordinances, resolutions, motions, and the Charter are available online at http://www.municode.com/Library/LA/New_Orleans. There is a two to three month lag before new ordinances, motions, resolutions and code updates are available online. If you are looking for recent Council actions, please contact the Clerk of Council at 504-658-1085 or pgcrutchfield@nola.gov. Please note that signed copies of ordinances, motions, or resolutions are not available until 7-10 days after approval.

Click on the New Orleans Zoning button to access the CZO. If you are unsure what the definition of a use or term is, such as "standard restaurant" or "single-family dwelling," refer to the Definitions section, which is Article 2 in the left menu. The various permitted, accessory, and conditional uses for each type of zoning designation are each listed in their own chapter.

OCCUPATIONAL LICENSES AND MAYORALTY PERMITS

HOW DO I KNOW IF I NEED A LICENSE AND PERMIT?

Almost every business in the city needs an occupational license and a mayoralty permit. Any enterprise that sells tickets, art works, or transacts any other sort of business that involves revenue exchange, such as hiring a contractor or paying for a service, needs to get an occupational license and file monthly or quarterly sales tax returns. Fee exemptions for non-profits are detailed below, but please note that non-profits still have to get occupational licenses and file sales tax returns.

WHAT IS A MAYORALTY PERMIT AND HOW IS IT DIFFERENT FROM AN OCCUPATIONAL LICENSE?

Mayoralty Permits no longer have anything to do with the Mayor or his office. All Mayoralty Permits are issued by the Department of Finance through the Bureau of Revenue in cooperation with the Department of Safety and Permits.

Mayoralty Permits allow you to use a space, such as a building, street, sidewalk, public or private lot, etc. to conduct business (i.e. buying and selling, contracting services, storing goods, manufacturing, etc.). **Occupational Licenses are how the Bureau of Revenue collects sales and other taxes from businesses.** The license is an agreement between you and the City to remit taxes. The License is tied to your business activity (selling clothes, selling tickets, being a caterer) and the taxes associated with it, and the Permit is tied to where you are conducting this activity and whether that activity is allowed in that specific place.

HOW DO I APPLY FOR OCCUPATIONAL LICENSES AND MAYORALTY PERMITS?

If you have never acquired an occupational license before you will need to fill out a **Schedule A Registration Form and Revenue Form**, available at the city website (<http://www.nola.gov/BUSINESSES/Bureau-of-Revenue/Online-Revenue-Documents/New-Business-Application/>).

- If you already have an Occupational License and Mayoralty Permit, you can also renew them online at the city website every year.
- **For Non-Profit Galleries, Collectives, exhibition space, retail, etc. formally organized as a 501 with the IRS or Louisiana Sec. of State:** Please register as a Non-Profit using the Schedule A form and fill out the Revenue Form. As a non-profit, while you may be exempt from sales taxes, income, and selected property taxes, you **MUST** file your exempt sales tax each month in order to keep your license.
- **Exemption Application for Non-Profits:** In order to be exempted from the Occupational License fee and sales tax, please fill out an Exemption Form, available here: <http://www.nola.gov/BUSINESSES/Bureau-of-Revenue/Online-Revenue-Documents/New-Business-Application/>.
- **As part of receiving an Occupational License, you will also receive Mayoralty Permit.** This is triggered by the Revenue Form. The Revenue Form is sent to Safety and Permits which checks your zoning designation, conducts inspections, and enforces the place-based components of running a business. Once approved by Safety and Permits, you will be issued both the Occupational License and the Mayoralty Permit.

- Please keep in mind that if you are not operating in a commercially zoned area, you may not be able to get an occupational license without a variance or other zoning applications. See [Zoning 101](#) for more details.

ANNUAL FEES

For retail, service, and rental establishments, the occupational license fee is based on the annual total sales of the business and ranges from \$50 per year for total sales under \$50,000 to \$6,200 for total sales over \$5.5 million.

Different rates apply to Gasoline Stations, Wholesale Dealers, Lending Businesses, and others. Flat annual license fees apply to some cultural businesses, such as mobile vendors, festival vendors, special events, and others. You can find out your occupational license fee by looking at the Occupational License Tax Tables, available here:

<http://www.nola.gov/BUSINESSES/Bureau-of-Revenue/Online-Revenue-Documents/New-Business-Application/>.

There are also fees associated with the Mayoralty Permit and any necessary Safety and Permits inspections and plan reviews. These fees vary based on individual circumstances.

SALES TAXES

- **All Businesses and Non-Profits That Sell Merchandise Must File a Sales Tax Return:**
 - The Sales Tax Form 8070 is available at the website link above. Also available is an online portal for paying sales tax.
- **Cultural Product Districts (CPDs) and Sales Tax Exemptions for Original Art:**
 - **Within any of the 20 CPDs in Orleans Parish, original art is exempt from local and state sales taxes.**
 - Original works of art eligible for the tax exemption include:
 - Visual art: not limited to but including drawing, painting, sculpture, clay, ceramics, glass, fiber, leather, metal, paper, wood, installation art, light sculpture, wearable art, or mixed media
 - Art made by the hand of the artist or under his direction
 - Art not intended for mass production
 - Limited, numbered editions (up to 100) of lithographs, photography, silk screen, intaglios, etchings and graphic design
 - **Ineligible media and products:** performing arts, food products, live plants, music recordings, and reproductions of original art works
 - **However, a business must still file a sales tax return claiming the value of the sales that are exempt under the CPD program.**
 - For more information on the Cultural District Program and Sales Tax Exemptions, please visit the Cultural Products Districts website at:

LIVE ENTERTAINMENT PERMITS

There is no such permit that is titled “Live Entertainment;” businesses are issued a Mayoralty Permit that allows Live Entertainment in that location. Whether Live Entertainment is allowed is determined by zoning. Below, we will have a brief overview of the definition of Live Entertainment, the permit’s costs, and zoning designations that allow Live Entertainment.

WHAT IS LIVE ENTERTAINMENT?

Live Entertainment is defined in the Comprehensive Zoning Ordinance (CZO) Section 2.2, Definitions, #110. Highlights of the definition are:

- Scheduled or planned performance or presentation during which both the performer(s) and audience are physically present at the time of the performance or presentation
- Typically sponsored, promoted, advertised, or publicized in advance to attract patrons or guests.
- Performer(s), can be:
 - Professionals
 - Amateur(s)
 - Participant(s) from the audience
 - Patron(s) or guests
- Performer(s) need not be compensated or remunerated.

Here are examples of **activities that fall under Live Entertainment. Please note that there may be other activities that may be determined by the permitting departments as Live Entertainment that are not listed here:**

- | | |
|--|---|
| • Theatrical productions | • Floorshows |
| • Athletic contests | • Literature readings |
| • Exhibitions | • Dancing |
| • Pageants | • Fashion shows |
| • Concerts, recitals | • Comedy |
| • Circuses | • Magic acts |
| • Karaoke | • Mime |
| • Bands, combos, and other live musical performances | • DJs, employees playing recording music and responding to requests |
| • Audience participation contests | |

Live Adult Entertainment is its own category and is highly regulated in the CZO: “Any entertainment that features dancers, go-go dancers, exotic dancers, male or female impersonators or similar entertainers or live entertainment, where persons regularly appear in a state of nudity or where live performances are characterized by the exposure of specified anatomical areas or by specified sexual activities” qualifies as Live Adult Entertainment.

Exemptions include: “periodic entertainment by schools, churches, and nonprofit organizations; live entertainment at weddings, and similar religious events within certain facilities.”

PERMIT FEES

When applying for your Occupational License and Mayoralty Permit for a new business you will need to inform Revenue of any Live Entertainment with or without admission fee and apply for it in addition to your Occupational License. Check of Amusement Permit in box 7 of the Schedule A and indicate any admission fees in box 11. The Schedule A can be downloaded here: <http://www.nola.gov/BUSINESSES/Bureau-of-Revenue/Online-Revenue-Documents/New-Business-Application/>.

Like Occupational Licenses, Live Entertainment Mayoralty Permits have fees that vary based on the type of business requesting the permit and their gross sales. However, for Live Entertainment, there are additional costs for charging admission.

Live Entertainment Codes	With Admission Fee	Without Admission Fee	Restaurants
Gross Sales	Fees	Fees	Fees
\$0-\$10,000	\$250.25	\$100.25	\$150.25
\$10,000-\$50,000	\$500.25	\$300.25	\$300.25
\$50,000 and above	\$750.25	\$500.25	\$500.25

LIVE ENTERTAINMENT ZONING

Live Entertainment is an accessory or conditional use in the following types of zoning designations. **Important! Please read the relevant sections of the CZO completely to find any restrictions or standards that are necessary to have Live Entertainment in a particular zoning designation or inquire with Safety and Permits on all the relevant restrictions and standards for your business zoning designation!** Restrictions often may not allow a particular type of business to have Live Entertainment, such as sidewalk cafes in the Central Business Districts. Standards such as the minimum floor space required, the type or number of performers, use of amplification, and more may also be applied in the CZO.

Zoning designations where Live Entertainment is either an accessory or conditional use for various business types such as restaurants and bars:

- Arts and Cultural Overlay Districts (there are two of these: Frenchmen Street and Freret St in Uptown)
- Central Business Districts
 - CBD-1
 - CBD-2
 - CBD-2B
 - CBD-3
 - CBD-5
 - CBD-7
- CBD-8
- Vieux Carre Districts
 - VCE-1
 - Existing hotels in the Vieux Carre Commercial -2, Vieux Carre Entertainment, and Vieux Carre Service Districts
- Light and Heavy Industrial Districts
- Lake Area Neighborhood Business District

SPECIAL EVENT TEMPORARY ALCOHOLIC BEVERAGE OUTLET LICENSES

TEMPORARY ABO: WHO NEEDS IT AND WHY?

For businesses that want to serve alcohol on a daily or frequent basis, obtaining an annual Alcoholic Beverage Outlet License (ABO) from the City and the State is required. Requirements are strict and include criminal background checks, restroom requirements, and other conditions.

For those businesses that wish to occasionally (Twelve 3 day (the 3 days must be consecutive) periods or less per year) serve alcohol to the public during a special event, such as a gallery opening, during a festival, or for a public reception for example, a Temporary Alcoholic Beverage Outlet (Temp. ABO) is required.

City and State laws require a temporary license for any alcohol **sales or free distribution to the public**. If a business, household, or any other entity is holding a private party on private property and giving away alcohol to their guests, they would not need this license. If you hired a catering company with its own ABO to serve at an event, you would not need this license. **If you are open and the general public can walk in or buy tickets and get alcohol (whether free or for a fee), you DO need this permit.**

The basic principle behind Temp. ABOs is that without regulation of public sale or giveaways of alcohol at businesses that are not bars or restaurants, etc. or outside in public arenas at special events, we undermine those businesses with annual ABOs who must comply with far more stringent regulations to hold their licenses (numbers of restrooms, criminal background checks, etc.). We also open up residential neighborhoods to commercial activity without their consent if we do not track and license special events that involve alcohol. As noted in the Zoning section above, activities that include alcohol can have impacts on surrounding businesses and properties such as litter, trespassing, and noise. A Temporary ABO helps enforcement identify who is responsible for the event.

HOW TO APPLY FOR A TEMPORARY ABO

Having the correct Temporary ABO License in Louisiana requires two steps and two licenses—one local license and one state license—acquired in a specific order.

Step 1: You must first acquire a New Orleans Temporary ABO license. The City's application process for Temporary ABO license allows the Revenue Department and Safety and Permits to screen zoning (Temp. ABOs are not normally allowed in residentially zoned areas) and get City Council approval, also required by law. The Temp. ABO can last a maximum of 3 consecutive days (by state law). The application process can take up to 30 days to acquire due to the multiple approvals needed. Please note there is a maximum cap of local Temp. ABOs for any entity of 12 per year. Once you have the local license, then you go to Step 2.

Step 2: Acquire a State Temporary ABO License. This License is distributed by the Louisiana Department of Alcohol and Tobacco Control. You can mail your application and they will mail it to you if you include a self-addressed and stamped envelope. Or it can be processed while you wait at the office in Baton Rouge.

LICENSE FEES

City of New Orleans Fees:

- Processing Fee: \$250.00

- Beer: \$135.00
- Liquor and Wine: \$500.00

State of Louisiana Fees:

- For 501(c)3 or 501(c)8 applicants: \$0
- State or other non-501 non-profit organization: \$10.00
- Businesses and all other applicants: \$100.00

COMPREHENSIVE ZONING DEFINITIONS FOR CULTURAL BUSINESSES

Below are selected definitions that are particularly relevant to cultural businesses from Article 2 of the CZO. Please go to the Municode CZO page to read the full section here: http://www.municode.com/Library/LA/New_Orleans.

Section 2.1. - General Rules Of Construction.

The following general rules of text construction shall apply to the regulations of this Ordinance:

1. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.
2. Words used in the present tense include the past and future tenses, and the future the present.
3. The word "shall" is always mandatory. The word "may" is permissive.
4. The word "building" or "structure" includes any part thereof, and the word "building" includes the word "structure."
5. Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning and customary usage.

Section 2.2. - Definitions.

For the purpose of this Ordinance, certain terms and words are hereby defined:

5. *Aesthetically Sensitive Area.* Any geographical area, either publicly or privately owned, in the City of New Orleans which contains or displays distinctive, unusual or historic visual elements exemplary of, and/or peculiar to New Orleans. The aesthetics of such an area could be adversely affected if views of it were obscured, obstructed or altered in an adverse manner by the visual elements of a use, activity, building or structure being constructed, placed or positioned near it. Aesthetically sensitive areas include but are not limited to the following: churches, cemeteries, convents, schools, parks, nature preserves, wildlife refuges, lakes, bayous, national and local historic districts or landmarks, design review districts, urban corridor districts and design vistas. Visual elements which could adversely affect an aesthetically sensitive area include but are not limited to the following: outdoor general advertising signs and their support structures.
8. *Amusement Place.* Establishments engaged in providing amusement or entertainment, excluding live adult entertainment, which may require a fee or admission charge and which must have an amusement tax license for such activities, including but not limited to dance halls; theatrical productions; bands, orchestras and other musical entertainment; billiard and pool establishments; commercial sports such as arenas, rings, rinks, coin- or token-operated devices in excess of three (3); expositions; game parlors, except off-track betting parlors. An establishment which holds valid City and State permits for the consumption of alcoholic beverages on the premises may allow the operation of three (3) validly licensed video draw poker devices on the premises which shall not be deemed to be coin- or token-operated devices for the purpose of this definition.
- 11A. *Artist Community.* Land and buildings used as a meeting place, retreat and/or exhibition center for the exchange of ideas between artists, members of the professional art community and the general public which may provide indoor and outdoor exhibition space, work space, meeting space, lecture halls, performance space and sculpture parks, as well as living and dining facilities for the staff, artists and participants in the center's retreat programs.

17. *Bed and Breakfast Accommodation.* An owner-occupied residential structure, originally constructed as either a single-family or a two-family structure that is easily converted to a single-family structure, which provides sleeping rooms for overnight paid occupancy of up to seven (7) nights. Common bathroom facilities may be provided rather than private baths for each room. Proof of owner occupancy shall be established by submission of proof of a homestead exemption. If more than one building is existing on a lot of record or a site (meaning two (2) or more contiguous lots historically acquired together), and the second building was originally constructed and has been used for habitable space, as defined by the Building Code, at least five (5) years prior to the establishment of the bed and breakfast, then it may be included in the operation of the bed and breakfast.
18. *Bed and Breakfast Family Home.* Bed and breakfast accommodations limited to no more than two (2) sleeping rooms.
19. *Bed and Breakfast Guest Home.* Bed and breakfast accommodations with three (3) to five (5) sleeping rooms; subject to a current certificate of liability insurance posted on the premises.
20. *Bed and Breakfast Historic Homes.* Bed and breakfast accommodations with no less than three (3) and no more than nine (9) sleeping rooms subject to approval by the Historic District Landmarks Commission and subject to a current certificate of liability insurance posted on the premises. Historic home status will only be granted to structures that are at least 3,000 square feet in size, a minimum of fifty (50) years old, and capable of being architecturally rated as green, blue, or purple.
21. *Bed and Breakfast Inns.* Bed and breakfast accommodations with a maximum of nine (9) sleeping rooms and subject to a current certificate of liability posted on the premises. Bed and breakfast inns will be limited to commercial and neighborhood business districts.
23. *Brew Pub.* An establishment which contains a full service standard restaurant and sells alcoholic beverages. A brew pub may feature live entertainment if otherwise permitted in the district, but not live adult entertainment. This establishment also contains a mini-brewery as an accessory use provided the sales of the mini-brewery products are less than fifty (50) percent of total sales. This mini-brewery shall be for the brewing of handcrafted, natural beer intended for retail consumption on the premises and on any premises that has a license as a standard full-service restaurant owned and operated in its entirety by the same corporate ownership and management as the brew pub. Retail sales may also be made at City Council-approved festivals. Delivery vehicles for the beer from the main brew pub must not exceed a weight of five (5) tons. A loading space permit must be approved and installed by the Department of Streets prior to any deliveries of beer from the site.
24. *Brewery.* A facility for the production and packaging of malt beverages of low alcoholic content for wholesale distribution, with a capacity of more than 15,000 barrels per year.
25. *Brewery, Local.* A facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on- or off-premises, with capacity of not more than 15,000 barrels per year. The development may include other uses such as a standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.
46. *Club, Private.* Buildings and facilities or premises used or operated by an organization or association for some common purpose, such as, but not limited to, a fraternal, social, educational or recreational purpose, but not including clubs organized primarily for profit or to render a service which is customarily carried on as a business. Such organizations and

associations shall be incorporated under the laws of Louisiana as a nonprofit corporation or registered with the Secretary of State of Louisiana.

- 47. *Cocktail Lounge.* A place for service or consumption of alcoholic beverages but not including live entertainment.
- 54A. *Cooking School.* An establishment that maintains courses of instruction or study in cooking or the culinary arts, taught by an instructor certified by a recognized professional body in such field(s), on specific days of the week during specified times consistent with the normal business hours of other educational institutions, and that maintains a place of business at which such courses are available through classroom instruction, where alcoholic beverages and/or food products associated with such courses may be sold or served for consumption on or off-premises, but where neither live entertainment or gambling are provided.
- 56. *Culinary or Cooking Facilities.* A space in a dwelling arranged, intended, designed, or used for the preparation of food for a family. Facilities may include a sink, stove, cabinets, and refrigerator or any combination of these arranged in such space. A refrigerator alone shall not constitute culinary or cooking facilities under this definition.
- 58. *Destination Resort/Entertainment Center.* A facility containing a minimum of one hundred fifty acres, located at the intersection of two (2) interstate highways, and having within its boundaries, as a primary use, an amusement place that is developed as a regional visitor tourist attraction and entertainment facility and/or theme park, containing amusement rides, games of skill and chance, etc., organized around a central theme or themes depicted through architecture.
- 77. *Flea Market.* Flea market, swap meet, or similar activity or those uses which involve the setting up of two (2) or more booths, tables, platforms, racks or similar display area for the purpose of selling or buying merchandise; where the individual vendors may each operate one or more such booths, etc. under the supervision of the flea market proprietor, who shall rent or otherwise arrange for assigned space(s) for each vendor and see that all applicable laws are complied with. A flea market, as defined herein, is not intended to include "garage sale," "bake sale," fruit or produce stands, art festival or any similar activity conducted by a civic or nonprofit organization.
- 92A. *Green Markets.*
 - a. "Green market" is defined as any permanent or seasonal market located on private property which involves the setting up of two (2) or more booths, tables, platforms, mobile units, or similar displays where producers and/or growers sell fresh produce and/or value-added products direct to retail and wholesale customers at stalls or mobile units in an open air location; where individual vendors may each operate one or more booths, under the supervision of a green market proprietor, who shall rent or otherwise arrange for assigned space(s) for each vendor and see that all applicable laws are complied with. A green market, as defined herein, is not intended to include, open air markets in the VCS District, "flea markets," "itinerant mobile produce vendors" or "transient vendors."
 - b. A "seasonal marketplace" is defined as any marketplace that exists on a regular recurring basis (semiweekly, weekly, biweekly or monthly) at the same site.
 - c. A "producer" or "grower" is defined as any person offering for sale articles for human consumption, such as fruits or their juices, vegetables, edible grains, nuts and berries

and value-added products or nonedible nursery items such as cut or potted flowers, which articles have been raised or prepared by the grower or producer, members of his family or persons in his employ. Permitted items for sale shall be limited to:

- (1) "Fresh produce" which is defined as fresh fruits and vegetables, edible grains, nuts and berries, and herbs.
- (2) "Nursery items and cut flowers" which are defined as plants and trees, fresh and dried flowers, and decorative vegetation grown or legally gathered by vendors themselves.
- (3) "Value-added products" which are defined as juices, honey, jams and jellies, dried fruits, salsa and baked goods if the primary ingredients were grown or gathered by the sellers themselves.
- d. A "market proprietor" is defined as the sponsoring entity that holds legal and financial responsibility of the green market; and who oversees the operation in some cases of the structures or facilities in which the market is housed.

99. *Home Occupation.* Any occupation within a dwelling and clearly incidental thereto, carried on by a member of the family residing on the premises provided that no person not a resident of the premises is employed, that not more than fifteen (15) percent of the floor area of the dwelling is used for the home occupation, and no stock in trade is kept or commodities sold, no mechanical equipment is used except such that is normally used for family, domestic, or household purposes, and there is no exterior indication other than a sign permitted by the district regulations, that the building is being used for any purpose other than a dwelling. When within the above requirements, a home occupation includes but is not limited to the following: (a) art studio; (b) dressmaking; (c) professional office of a lawyer, engineer, architect, accountant, salesman, real estate agent, insurance agent, or other similar occupations; (d) teaching, with musical instruction limited to not more than two (2) pupils at a time; however, a home occupation shall not be interpreted to include barber shops, beauty parlors, restaurants, or office of a physician or dentist where mechanical equipment is used.

110. *Live Entertainment.* A scheduled or planned performance or presentation during which both the performer(s) and audience are physically present at the time of occurrence and that is typically sponsored, promoted, advertised, or publicized in advance to attract patrons or guests. The performer(s), who may be amateur(s), participant(s) from the audience, patron(s) or guests, need not be compensated or remunerated. These uses include but are not limited to the following:

- a. Theatrical productions, athletic contests, exhibitions, pageants, concerts, recitals, circuses, karaoke, bands, combos, and other live musical performances, audience participation contests, floorshows, literature readings, dancing, fashion shows, comedy or magic acts, mime and the playing of recorded music (disc, records, tapes, etc.) by an employee, guest or other individual, one of whose functions is the playing of recorded music and who is in verbal communication with the clientele of the establishment.
- b. *Live Adult Entertainment.* Any entertainment that features dancers, go-go dancers, exotic dancers, male or female impersonators or similar entertainers or live entertainment, where persons regularly appear in a state of nudity or where live performances are characterized by the exposure of specified anatomical areas or by

specified sexual activities as defined in Section 2.2.4(g) and 2.2.4(h) of the Comprehensive Zoning Ordinance.

- c. Specific exemptions include: periodic entertainment by schools, churches, and nonprofit organizations; live entertainment at weddings, and similar religious events within certain facilities based upon a rational impact analysis justifying any different treatment.

- 129. *Micro-Distillery*. A facility that produces alcoholic beverages in quantities not to exceed twelve thousand (12,000) gallons per year and includes a tasting room. A tasting room allows customers to taste samples of products manufactured on site and purchase related sales items. Sales of alcohols manufactured outside the facility are prohibited. A separate liquor license is required for sales of alcohols manufactured on site.
- 131A. *Multi-Discipline Arts Center*. An art center that presents visual arts exhibitions, as well as performing arts, including music, dance and theater and having a minimum of 10,000 square feet of gallery space in addition to a minimum of 5,000 square feet of theater space.
- 132. *Mural*. A work of art painted or otherwise applied to or affixed to an exterior wall surface. A mural is considered public art and such is subject to design review of the aesthetic qualities by the staff of the City Planning Commission, and, if in a historic district, by the staff of the appropriate public jurisdictional agencies prior to installation.

The Board of Murals shall review a proposed mural for its aesthetic qualities as well as for its intrinsic value to the community. Murals which serve to advertise or promote a business service, product, activity, cause, event or provide information of any kind and which advertisement or promotion text occupies less than twenty (20) percent of the wall area utilized by the mural shall not be considered a "sign" and as such, shall not be subject to the general sign regulations of Article 12, except insofar as those regulations refer to the present cap in the City's Sign Ordinance. Regardless of the number which may be permitted under the "cap," there shall not be more than ten (10) murals permitted under these regulations.

Approval of the Board of Murals Review shall constitute authorization for the issuance of a permit by the Department of Safety and Permits.

The Board of Murals Review shall be the seven (7) members of the New Orleans City Council, or any portion thereof, appointed or authorized for such purpose.

Appeal of the decision of the Board of Murals Review shall be to the Civil District Court.
- 133. *Nightclub*. An establishment having a minimum entertainment floor area of 2,000 square feet, including discotheques, providing live entertainment, but not live adult entertainment, and/or a permanent area for dancing and which may serve food and/or alcoholic beverages. The entertainment floor area shall be composed of the wet-bar, dance floor and/or live entertainment stage area, and table area.
- 147A. *Reception facility*. A business establishment that functions as a hosting and rental facility or banquet hall for private events, including but not limited to wedding receptions, holiday parties and fundraisers, with food and beverages that are prepared and served on site or by a caterer to invited guests during intermittent dates and hours of operation but cannot be operated as any kind of restaurant, cocktail lounge, or nightclub with regular hours of operation. Live entertainment, excluding live adult entertainment, may be included as an accessory use of the private event.
- 153. *Restaurants*. An establishment where prepared foods, desserts or beverages are offered for sale for consumption on or off the premises and where the sales of such foods, desserts or

beverages, exclusive of alcoholic beverages, constitute fifty (50) percent or more of the revenue for said establishment (exclusive of a snowball stand which does not provide permanent seating, sells only snowballs and contains a maximum floor area of 144 square feet, and is of a seasonal nature, operating during the period from April 1st through September 30th). Unless otherwise expressly permitted, live entertainment of any type shall be prohibited. Where live entertainment is permitted, live adult entertainment shall be prohibited. For purposes of this Ordinance, restaurants shall be of the following types:

- a. *Standard Restaurant.* A restaurant whose principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state, and where customers, normally provided with an individual menu, are served their food, desserts or beverages by a restaurant employee at the same table or counter at which said items are consumed.
- b. *Cafeteria Restaurant.* A restaurant characterized typically by the selection of prepared food items by customers as they move in a line in front of the individual food items. An individual menu is not normally provided and food items are typically placed on the customer's plate by restaurant employees. The food items are transported to adjoining tables by the customer or by restaurant employees.
- c. *Fast Food Restaurant.* Fast food restaurants shall consist of (1) those restaurants which are part of a fast food chain, and (2) those which are not part of a chain but which demonstrate the attributes of a fast food restaurant.

Category 1. A restaurant which is part of a chain of fast food outlets, wherever located, whose principal business is the sale of foods, desserts or beverages to the customer in a ready-to-consume state, either within the restaurant building or for carry-out with consumption off the premises, and whose design or principal method of operation bears all of the following characteristics:

- (a) Food items at the majority of the outlets within the fast food chain are served in paper, plastic, or other disposable containers.
- (b) Substantially similar food items are available at the majority of the outlets within the fast food chain.
- (c) A majority of the outlets within the chain share substantially similar architecture, interior design and/or signage.

Category 2. A restaurant which is not part of a chain of fast food outlets, but whose principal business is the sale of foods, desserts or beverages to the customer in a ready-to-consume state, either within the restaurant building or for carry-out with consumption off the premises, and which has all of the following characteristics.

- (a) Food items are served primarily in paper, plastic or other disposable containers.
- (b) The restaurant provides rapid customer service by preparing the menu items in advance of the customer's order or by having the items in a ready-to-assemble condition.

- d. *Drive-In Restaurants.* A restaurant whose principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state, and whose design,

- method of operation or any portion of whose business is the serving of food items directly to the customer in a motor vehicle by a carhop or by other means which eliminate the need for the customer to exit the motor vehicle.
- e. *Specialty Food Restaurant.* A restaurant whose principal business is the sale of traditional New Orleans, ethnic, or unusual foods, desserts, or beverages to the customer in a ready to consume state within the building housing the restaurant and whose principal method of operation bears the following characteristics:
 - (1) The restaurant is always part of a food and beverage market located within a single structure of not less than 20,000 square feet.
 - (2) The restaurant is located in a building under single management where appropriate service and garbage handling facilities are provided.
 - (3) Food items are usually served in paper, plastic, or other disposable containers.
 - (4) A limited number of menu items are offered for sale.
 - f. *Supper Club.* A standard restaurant having a minimum enclosed dining/entertainment area of 4,000 square feet and providing live entertainment, but not live adult entertainment. The dining/entertainment area shall be composed of standard restaurant tables and seating and a live entertainment stage area and/or dance floor. The dining area must occupy a minimum of fifty (50) percent of the floor area of the restaurant/entertainment area. A supper club must provide full and continual food service throughout the periods of its operation. No more than twenty (20) percent of the seating area, as approved by the Department of Safety and Permits, may be removed to accommodate special performances.
161. *Service Ware.* Food service utensils such as plates, bowls, cups, saucers, glasses and flatware that are provided by restaurants and utilized by their patrons for the purpose of consuming prepared foods.
- a. *Nondisposable.* Those utensils as described above, that are made of durable, easily cleanable materials. Such utensils are intended for reuse by the restaurant facility, enabling its patrons to consume food items on the premises.
 - b. *Disposable.* Those utensils as described above, that are mass produced, made of nondurable semipermanent materials and are made to be disposed of after restaurant patrons consume food items.
162. *Sidewalk Cafe.* A temporary, easily removable extension of an established restaurant consisting of movable tables, chairs, and service equipment that are arranged directly upon the sidewalk paving as an adjunct and directly adjacent to the existing permanent restaurant, serving various refreshments such as beverages and food items on nondisposable service ware via traditional waiting staff. Elements of "sidewalk cafes" cannot obstruct barrier-free access or passage along said sidewalk nor any building ingress, egress, stairways, doorways or other accessways. For the purposes of this definition "temporary" shall mean that the entire arrangement can be removed at a moment's notice.
165. *Snowball.* Shaved or crushed ice flavored with a syrup and may contain a variety of toppings.
166. *Snowball Stand.* A place where snowballs are made and sold, with no permanent seating, with a maximum floor area of 144 square feet and which is operated on a seasonal basis between April 1st and September 30th.

169. *Specialty Urban Marketplace*. A retail center owned or controlled by a single entity, not anchored by a major department store, unified by a specific architectural theme and consisting of a major public or private space, with more than 55,000 square feet of enclosed gross leasable area devoted primarily to diverse retail, food and entertainment facilities.
- 194A. *Wine School*. An establishment that maintains courses of instruction or study in enology and/or viticulture, taught by an instructor certified by a recognized professional body in said field(s), on specific days of the week during specified times consistent with the normal business hours of other educational institutions, and that maintains a place of business at which such courses are available through classroom instruction, where alcoholic beverages and/or food products associated with such courses may be sold or served for consumption on or off premises, but where neither live entertainment or gambling are provided.
195. *Winery*. A farm at least ten (10) acres in size which includes the cultivation, processing and fermentation of grapes, berries or fruits relative to the products raised on the premises.

MORATORIUMS

Section 3-126. - Temporary Prohibitions.

- (1) The Council may by the affirmative vote of a majority of its membership impose a moratorium ordinance, interim zoning district, or other temporary prohibition on zoning, permitting, and other similar functions where necessary to protect the public health, safety, or welfare for a temporary period. All such temporary prohibitions shall specify the type of review required and the city agency responsible for the review; the agency shall complete its review and provide its report to the Council within the time limits established for such temporary prohibitions. No moratorium ordinance, interim zoning district, or other temporary prohibition shall remain in effect for more than one year, provided that the Council may by ordinance authorize one extension for an additional period of one hundred eighty days. In the event that the agency responsible for the required review has not completed its review and submitted its report within the initial period or the one-hundred-eighty-day extension, the Council may by ordinance extend the temporary prohibition for one additional period of up to one hundred eighty days. Thereafter, no moratorium ordinance, interim zoning district, or similar prohibition of substantially the same legal effect on substantially the same geographic area may be imposed until at least one year after the expiration of the prior moratorium ordinance, interim zoning district, or other temporary prohibition. A moratorium ordinance adopted pursuant to this section shall not be required to lie over for the twenty-day period specified in Section 3-112(5) of this chapter.
- (2) Any moratorium ordinance, interim zoning district, or other temporary prohibition in effect on January 1, 1996, shall be limited to a term of one year in duration from that date subject to extensions as provided in paragraph (1) above.
- (3) Any moratorium ordinance, interim zoning district, or other temporary prohibition shall provide for a right of appeal to the Council for waivers or exceptions thereto. Such waivers or exceptions may be granted by an ordinance adopted by a majority of all members of the Council.

Sec. 30-66. - Rules and regulations.

The director of the department of finance shall prescribe such other rules and regulations as to the form of the application for permits and their issuance as may be required to carry out the full intent and purpose of this article.

(Code 1956, § 46-4)

Sec. 30-67. - Penalties and interest.

All mayoralty permits must be obtained prior to the occasion for which it is issued. If the applicant fails to secure the permit prior to the occasion, the following penalties and interest shall apply:

- (1) Mayoralty permits acquired on a regular yearly basis shall become delinquent February 1 of that year. If the regular yearly permit is not obtained by February 1 of that year, there shall be interest added to the fee at the rate of eight percent per annum from the due date until paid. In addition to the interest that may be added, a penalty shall be imposed at the rate of 20 percent of the fee if the failure to obtain such permit is for not more than 30 days and with an additional 20 percent for each additional 30 days or fraction thereof during which the failure continues, not to exceed 60 percent of the amount of the fee.
- (2) Mayoralty permits acquired on other than a regular yearly basis shall become delinquent at the start of the occasion. If the permit has not been obtained prior to the occasion, there shall be interest added to the fee at the rate of eight percent per annum from due date until paid. In addition to the interest that may be so added, a penalty shall be imposed at the rate of 50 percent of the fee.
- (3) The director of the department of finance may, at his discretion, for good cause, waive, in whole or in part, any of the penalties provided in this section.

(Code 1956, § 46-15)

Sec. 30-68. - Permits nontransferable.

Permits issued under the authority of this article III shall be nontransferable either as to individuals, location or item as defined in sections 34-318 through 34-220.

(Code 1956, § 46-3)

Sec. 30-69. - Mayoralty permits required for various callings or occasions.

Permits shall not be required for the sale by an individual of tickets at or below face value to athletic contests or other amusement events, provided that tickets are not sold or offered for sale within 750 feet of the grounds of the Superdome when the event related to the ticket is being conducted or within six hours of the scheduled commencement of such event.

Except for such sale by an individual of tickets at or below face value to athletic contests or other amusement events, within said 750-foot buffer zone, every person who shall desire to use the public streets, sidewalks or other public or private places of business establishments for the conduct of any of the businesses or callings hereinafter set forth shall first apply to and obtain from the department of finance a permit. Such permit shall in each instance state the occasion for which it is issued and the date upon which it will expire and shall be in addition to any other tax or license to which permittee may be liable. Except as otherwise provided,

annual permits expire on December 31. Such permits, however, are not valid within the central business district area bounded by the river on the east, Claiborne Avenue on the west, Esplanade Avenue on the north, and Howard Avenue on the south, except as provided in this article.

(Code 1956, § 46-1; M.C.S., Ord. No. 17,921, § 1, 12-19-96; M.C.S., Ord. No. 21426, § 1, 2-20-04)

Cross reference— *Mayoralty permit required for street entertainers, § 30-1452 et seq.; mayoralty permit required for certain Mardi Gras activities, § 34-216 et seq.; mayoralty permits and certain restrictions on certain sales in the central business district, § 34-218; mayoralty permits required for peddlers and itinerant vendors selling artifacts, § 110-76 et seq.; mayoralty permits required for artists, § 110-121 et seq.; mayoralty permits required for flower vendors and peddlers, § 110-151 et seq.; mayoralty permits required for food vendors, § 110-186 et seq.; mayoralty permits required for certain soliciting, § 110-221 et seq.; mayoralty permits required for transient vendors, § 110-256 et seq.; Vieux Carre, ch. 166.*

Sec. 30-70. - Fee schedule.

[Permits required by this article shall be paid for by the applicant at the time of issuance according to the following schedule:]

- (1) To sell novelties on the city streets other than during the Mardi Gras season, per sales outlet, for one year\$50.00
- (2) To sell candles on foot or from push carts or other vehicles on city streets or public places other than during the Mardi Gras season, per sales outlet, per year50.00
- (3) To sell home-manufactured or home-grown products on foot, per year50.00
- (4) To sell razor blades, toilet articles, pencils, shoe laces, etc., on city streets or public places, per year30.00
- (5) Demonstrations of food products or devices in public places or markets, etc., per engagement50.00
- (6) To distribute samples, advertising brochures and pamphlets, or commercial literature of any type whatsoever, canvass or solicit on city streets or house to house for commercial purposes.
 - a. For crew manager, per year50.00
 - b. For each crew member, per year30.00
- (7) To take and sell photographs on the city streets or other public places where the parties photographed willingly pose for the picture and the picture is developed on the spot where taken and there delivered to the parties photographed, per year50.00
- (8) To take and sell photographs on city streets or in any other public places in any other manner than that described in subsection (7), per year500.00
- (9) To conduct a sale of goods, wares or merchandise in issuance, bankruptcy, mortgage, insolvent assignees, receivers, trustees removal or closing out sale or sale of goods, wares and merchandise damaged by fire or otherwise in accordance with R.S. 51:31 to 51:41, per sale50.00
- (10) To give a rummage sale, per event30.00
- (11) To give a boutique sale, per event10.00
- (12) Weighing devices, etc., on sidewalks or in public places.
 - a. Per nickel machine, per year50.00
 - b. Per penny machine, per year30.00

- (13) Exhibitions, expositions, etc., educational or otherwise, when admission is charged or offerings solicited or accepted, per month250.00
- (14) For a circus, a carnival or any other activity wherein mechanical devices for amusement other than coin-operated are used on a temporary basis, per year in addition to license200.00
- (15) To operate games of sport or skill when admission is charged or a fee collected in any manner, including putt-putt games, shooting galleries, archery, etc., per year200.00
- (16) To conduct sport events when admission is charged or a fee collected in any manner and when an annual license is not paid to the city:
- a. Admission not more than \$0.75 per event30.00
 - b. Admission more than \$0.75 per event50.00
- (17) For amateur and professional prizefights or boxing and wrestling contests:
- a. Admission not more than \$0.75 per event30.00
 - b. Admission more than \$0.75 per event50.00
- (18) For entertainment (other than fairs given by a church for the benefit of the church or by a school for the benefit of the school) dance reviews, plays, festivals, bazaars, etc., with or without music, when admission is charged or when no admission is charged, but subscription fees or contributions are collected.
- a. Admission not more than \$0.75 or by invitation, per event30.00
 - b. Admission more than \$0.75 per event50.00
- (19) For carnival balls50.00
- (20) For philharmonic or symphonic recitals, operas or other entertainments of like nature when admission is charged or a fee or subscription is collected in any manner.
- a. Admission not more than \$0.75 or by invitation, per event30.00
 - b. Admission more than \$0.75, per event50.00
- (21) For orchestras in restaurants or business establishments for purposes of entertainment or dancing when no admission is charged, per year
- Gross sales of:
- \$0—\$10,000150.00
 - \$10,001—\$50,000300.00
 - over \$50,000500.00
- (22) For music other than an orchestra for entertainment purposes or dancing when no admission is charged or fee exacted, per year
- Gross sales of:
- \$0—\$10,000100.00
 - \$10,001—\$50,000300.00
 - over \$50,000500.00
- (23) For music for entertainment purposes or dancing where admission is charged or fee exacted in any manner, per year
- Gross sales of:
- \$0—\$10,000250.00
 - \$10,001—\$50,000500.00
 - over \$50,000750.00
- (24) For dancing when admission is charged:

- a. Admission not more than \$0.75 per event30.00
- b. Admission not more than \$1.99 per event50.00
- c. Admission \$2.00 or more per event100.00
- (25) For a private dance in a public hall, per event30.00
- (26) To stage, present or conduct a parade, motorcade, procession, march, or any other planned movement of persons, vehicles, or animals on the streets of the city (except road races, Mardi Gras or carnival parades and funeral processions).
 - a. For events occurring within a neighborhood which are sponsored by school or community-based, private-nonprofit organizations domiciled in the parish50.00
 - b. For all other events200.00
- (27) For the purpose of operating a retail business establishment exhibiting and selling to the public: Books, magazines, periodicals and other publications or paraphernalia which feature nudity, simulate natural or unnatural sex acts or otherwise appeal to sexually prurient interest and which establishment caters exclusively to adults2,500.00
- (28) To operate a bed and breakfast-family home, i.e., where one or two rooms are available for rental, per year200.00
- (29) To operate a bed and breakfast-guest house, i.e., where three to five rooms are available for rental, per year600.00

(Code 1956, § 46-1(2), (3), (9), (14), (16), (17), (19)—(34A), (37); M.C.S., Ord. No. 16,952, § 1, 3-16-95; Ord. No. 19,936, § 1, 12-1-00)

Cross reference— *Peddlers and solicitors, ch. 110; peddlers and itinerant vendors, § 110-46 et seq.; peddlers of food, § 110-186 et seq.; solicitors, § 110-221 et seq.; transient vendors, § 110-256 et seq.*

Sec. 30-71. - Fees to go to general fund.

The collector of revenue shall transmit, day by day, as collected by him, to the bureau of the treasury all moneys and fees received for the issuance of the permits required by this chapter. The bureau of the treasury upon the receipt of such moneys and fees shall immediately deposit them in the general fund.

(Code 1956, § 46-5)

Sec. 30-72. - Additional charges for police pension fund.

In addition to the charges shown in the fee schedule for each permit, each applicant shall be required to pay the sum of \$0.25 for the account of the police pension fund, which additional sum shall be transmitted by the collector of revenue, day by day, as collected by him, to the chief of bureau of the treasury. At the end of each month the chief of the bureau of the treasury shall remit all such sums so collected for account of the police pension fund to the board of trustees, police pension fund.

(Code 1956, § 46-2)

Sec. 30-73. - Obscenity laws to be provided to certain applicants.

The department of finance shall provide a copy of R.S. 14:91.11 relative to sale, exhibition or distribution of material harmful to minors and R.S. 14:106 relative to obscenity, to each applicant for a permit under this

chapter to conduct live entertainment and to the owner of the premises upon which the live entertainment is proposed to be conducted.

(Code 1956, § 46-2.1)

Sec. 30-74. - Permits valid in the central business district.

Permits designated by section 30-70(5), (10) through (12), (14), (17) through (27), are valid within that area of the city bounded by the Mississippi River on the east, Rampart Street on the west, Esplanade Avenue on the north and Canal Street on the south. Permits designated by other subsections of section 30-70 shall not be valid in that area of the city bounded by the Mississippi River on the east, Rampart Street on the west, Esplanade Avenue on the north and Canal Street on the south; provided, however, that vendors who have continuously operated the same business within that area under the authorization of this chapter for eight or more years prior to January 1, 1972 may obtain the same number of permits to operate such businesses within that area as the vendor possessed as of January 1, 1972.

(Code 1956, § 46-1.1)

Sec. 30-75. - Permits not valid in certain areas during Annual Louisiana Jazz and Heritage Festival Season.

- (a) Permits designated by subsections 30-70(1) through (4) and (7) are not valid within the area bounded by Florida Avenue on the north, North Broad Avenue on the east, Esplanade Avenue on the south, and Bayou St. John on the west (excluding the portion of that area contained within the exterior boundaries of the New Orleans Fair Grounds Racetrack) during the Annual New Orleans Jazz and Heritage Festival Season.
- (b) The "annual New Orleans Jazz and Heritage Festival season" is defined as that period occurring annually commencing at 7:00 a.m. on the first day of live music performances at the New Orleans Jazz and Heritage Festival conducted annually at the Fair Grounds Racetrack by the New Orleans Jazz and Heritage Foundation, Inc., and continuing through and until midnight on the concluding day of live music performances at such location during such festival.
- (c) Any established and properly licensed retailer located within the area designated by subsection (a) shall be permitted to display and sell their own merchandise on the exterior portion of their leased or owned premises during the dates of the annual New Orleans Jazz and Heritage Festival season.

(Code 1956, § 46-1.1.1; M.C.S., Ord. No. 24403, § 1, 4-28-11)

Sec. 30-76. - Peddling novelties, souvenirs and foods; prohibited near schools.

It shall be unlawful to sell novelties, souvenirs, candies, nuts, confections, ice cream, ice cream bars, hot tamales, sandwiches, soft drinks, cakes, pies, fruits, and vegetables, or any other food stuff on the city streets within two blocks of any elementary or secondary school when such school is in session.

(Code 1956, § 46-14; M.C.S., Ord. No. 23799, § 1, 11-19-09)

Sec. 30-77. - Offense for misuse of permits.

- (a) No person, individual, or corporation shall copy, reproduce, or counterfeit, or cause to be copied, reproduced or counterfeited, any permit issued pursuant to section 30-69 by any form or process, or to otherwise represent something to be a valid permit when it is not.

- (b) Whosoever violates the prohibition of this section shall be punished in accordance with the penalty provided for in sections 1-13 and 30-78

(Code 1956, § 46-1.2)

Sec. 30-78. - Penalty.

Persons who fail to obtain a permit or to comply with any of the other regulations contained in this chapter, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to the punishment prescribed in section 1-13. A permittee so convicted shall forfeit such permit and not be entitled to a refund of the fees paid therefor.

(Code 1956, § 46-16)

Secs. 30-79—30-100. - Reserved.

FOOTNOTE(S):

⁽⁸⁸⁾ **Cross reference**— *Mayoralty permit required for readers, § 30-1283; mayoralty permit required for street entertainers, § 30-1452; mayoralty permits required for certain peddlers and itinerant vendors, § 110-46; mayoralty permits required for certain transient vendors, § 110-256 et seq.; alcoholic beverage special event permits, § 10-52. (Back)*

OCCUPATIONAL LICENSES

Sec. 150-951. - General definitions.

For the purposes of this article, unless the context clearly otherwise requires or unless otherwise defined in specific portions of the article, the following words shall have the respective meanings ascribed to each in this section.

Business includes any business, trade, profession, occupation, vocation, or calling.

Regulation 150-951(1) Business.

"Business" as defined in this section means any activity reasonably expected to result in gain, benefit or advantages, either directly or indirectly; the fact that operations resulted in a loss or did not provide the expected benefits or advantages would not eliminate an activity from the definition of "business". This definition is intended so that some degree of continuity, regularity or permanency be involved so that the doing of any single act pertaining or related to a particular business would not be considered engaging or carrying on that business; a series of such acts would be so considered.

Continuous employment, occupation, or profession engaged in for livelihood which occupies the majority of time and attention, or activity in which time and capital are invested on future outcome are included in the meaning of business, just as barter or exchange of things, rights, or services for value are

defined as business. It is not necessary for any activity to constitute the sole occupation to remain within the intended definition.

The term "business" does not include isolated and occasional sales by persons who do not hold themselves out as engaged in business. This exclusion clearly applies to sales made by the owners of property acquired for use or consumption, and who are not engaged in selling similar property on a repeated or continuing basis.

Whether an activity constitutes "business" demands an analysis of the continuing nature of the activity, and may change with respect to any particular person. As an example, trustees or receivers conducting a continuing retail merchandising activity, even though solely by court order, would be considered to be in the merchandising business, while the sale conducted by the same trustees or receivers in order to liquidate the business pursuant to a later court order would not be considered to be in business. Further, the occasional sale of used equipment made by a person engaged in the equipment rental business would not constitute the business of selling equipment, but if the same lessor of equipment frequently, routinely or continuously offered used equipment for sale, then he would be engaged in that business.

Collector, for the purpose of this article, is the director of finance, collector of revenue, treasurer, or other appointees of the director.

Contractor is synonymous with the term "builder" and means a person, firm, partnership, corporation, association, or other organization, or a combination of them, which undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structure or works in connection therewith and includes subcontractors and specialty contractors. As such, the word, "contractor" shall include oil field service contractors, which shall consist of those contractors performing general oil well servicing, maintenance, and construction when conducted as a single company unit. "General oil well servicing" shall include welding, pipe coating, pipe inspection, wireline service, automation, work over, logging, analysis, seismograph, installing and servicing equipment, packing, platform work, perforating, and completion.

Regulation_150-951(3). Contractor.

The term "contractor" shall include, but [is] not limited to, plumbers, electricians, carpenters, roofers, installers (air conditioners, heating units, carpeting, floors, tile, siding, machinery, equipment, gutters, alarm systems, etc.) painters, bricklayers, masons, welders, and well drillers.

Contractor's gross receipts, for the purposes of computing the license fee provided for in section 150-965 of this article, are determined the same for all contractors, whether or not they have a lump sum contract or a cost plus contract. The gross receipts for a lump sum contract are based on the actual amount of the contract, whereas, the gross receipts for a cost plus contract are based on the actual cost of the contract to the owner including the amount added thereto as a fee.

Regulation_150-951(4). Contractor's gross receipts.

Gross receipts for all contractors, whether lump sum or cost plus, are to include those receipts received for performing contracted services. This means that under a lump sum contract, the amount of the contract is used to compute the license tax under section 150-965 subject to the provisions provided for contractors under section 150-972(a) of this chapter. In the case of a cost plus contract, gross receipts include the cost of the contract plus the fees associated with that contract or contracts. Those fees can be based on a percentage or on a flat fee. Nevertheless, all revenue received as a result of the contract are included in the computation of the license tax.

Fixed location, for the purpose of this article, means any permanent structure which is used to provide goods or services to consumers.

Gross commissions for travel agencies is defined as fees earned on the sales of tickets and provision of other services and shall not include actual ticket prices. For carrying on each business of travel agency, the license tax shall be based on gross commissions.

Gross income for real estate brokers is defined as those fees from any source deposited into the real estate broker's agency's general fund account less escrow deposits, and less fees paid to cooperating real estate brokers. For carrying on each business of real estate broker, the license tax shall be based on gross income. Notwithstanding any provisions herein to the contrary, the maximum amount paid by a real estate broker shall be \$2,200.00.

Peddler, for the purpose of this article, means any person who for himself or any other person, goes from house to house, or place to place, or store to store, exposing and selling the merchandise which he carries with him and delivering the same at the time of, or immediately after, the sale or without returning to the base of business operation between the taking of the order and the delivery of the goods; however, any person who uses the same vehicle or a combination of one or more vehicles for the purpose of taking orders and delivering merchandise, regardless of the fact that the vehicle returns to the base of operations between the taking of the order and the delivery of the merchandise, shall be deemed a peddler, unless such person can show that the merchandise delivered is accompanied by an invoice or delivery ticket prepared at the base of operations and which conforms to the original order and that the person delivering the merchandise has permitted no deviation from the original order by allowing the purchaser to reject, cancel, increase, or decrease the quantity at the time of delivery or to offset against such quantity any merchandise delivered at a prior time which is being returned. This extension of the meaning of the term "peddler" shall not be interpreted so as to prevent rejection or cancellation of bona fide orders or the return of inferior merchandise, but shall be construed so as to prevent persons peddling merchandise from escaping their tax liability by subterfuge through means of so-called "standing order" or blanket advance orders, increase and decrease in quantities at the time of delivery, arbitrary rejections and cancellations, and offset of merchandise returned by reason of nonsale rather than obligation of warranty, all of which are hereby declared to be mere devices to prevent normal methods of operations so as to disguise the business of a peddler as an ordinary wholesale business. "Peddler" shall include, but is not limited to, hawkers, itinerant vendors, and any retail dealers not having a fixed place of business.

Regulation_150-951(8). Peddler.

The definition of "peddler" includes but is not limited to the following vendors:

- (1) *Roadside vendors;*

- (2) *Temporary stands;*
- (3) *Sales made from motor vehicles;*
- (4) *Farmers vending from locations removed from their farms.*

Person includes an individual, firm, corporation, partnership, limited liability company, association, or other legal entity.

Regulation 150-951(9). Person.

As used in this article, the word "person" includes both natural persons or artificial persons, including corporations, partnerships, limited liability companies, estates, trusts, business trusts, syndicates, cities and parishes, municipalities, the state of Louisiana, any district or political subdivision, department or division thereof, any board, agency, or other instrumentality thereof, acting unilaterally or as a group or combination, as well as receivers, referees in bankruptcy, agricultural associations, labor unions, firms, co-partnerships, joint ventures, associations, singularly or in the plural, who have the legal right or duty whether explicit, implied or assumed, to perform any of the transactions described in this article.

Retail dealer to institutional consumers, for the purpose of this article, includes all businesses selling, at retail from a fixed place of business, merchandise to dairymen, cattlemen, or farmers, to federal, state, parish, or municipal governments or institutions, to educational or charitable institutions, to hospitals, manufacturers, public utility companies, processors, refiners, fabricators, contractors, severers of natural resources, carriers of freight or passengers, pipe lines, hotels, and restaurants provided that such sales constitute the major portion of the business.

Separate location, as used in section 150-955 of this article, exists unless a similar or associated type of business is operated as a unit under a single roof or on the same contiguous tract of land.

Regulation 150-951(11). Separate location.

The phrase "separate location" is defined to clarify license requirements as cited in section 150-955 (separate licenses required for each location, based on primary class of business). The definition covers situations in which a business owner conducts more than one business under one roof or on the same parcel of land. The owner needs only one license as long as the businesses are similar or of an associated nature. The key phrases in the definition are "similar or associated type of business" and "operated as a unit". Similar types of businesses would be retail and retail, service and service, wholesale and wholesale, whereas associated type of businesses would be retail and wholesale, retail and repair, retail and rental, etc. It should be noted that these operations must be operated as one unit.

The definition is not intended to cover mall or shopping center situations which are operated under one roof or on the same parcel of land.

In determining whether a business is operated as a unit, the following criteria should be met:

- (1) *Same ownership;*
- (2) *A common set of books and records are to be maintained;*

- (3) *The businesses must be held out to the general public as one unit (common trade name, common customer contact point, etc.);*
- (4) *An interdependency exists.*

Wholesale dealer, for the purpose of this article, except as specifically provided in this article, means any person who sells to other dealers who in turn resell.

(Code 1956, § 70-1; Ord. No. 19,937, § I, 12-1-00)

Sec. 150-952. - Payment of tax.

- (a) Except as otherwise expressly provided, there is hereby levied an occupational license tax for the year 1989 and for each subsequent year upon each person pursuing and conducting any business, trade, calling, profession or vocation within the city, which tax shall be due and payable to the tax collector as follows:
 - (1) In the case of any business which is subject to license under this article, commencing on or after January 1, 1989, the license tax shall be due and payable on such date of commencement.
 - (2) In the case of a business commenced prior to the effective date of the ordinance from which this article was derived, the license tax shall be due and payable on January 1, 1989.
- (b)
 - (1) Annually thereafter, all license taxes levied under this article shall be due and payable on January first of each calendar year for which the license is due, except that for a new business commencing after January first of any calendar year, the first license shall be due and payable on the date the business is commenced.
 - (2) All licenses unpaid after the last day of February of the calendar year for which they are due or, in the case of a new business, unpaid on the date such business is commenced shall be deemed delinquent and subject to the payment of delinquent interest and penalty. Delinquent interest and penalty shall be computed from March first of the calendar year for which they are due.
- (c) For ongoing businesses which cease operation between January first and the last day of February of the current license year, the license for the year shall be based on their gross receipts for the prior year, divided by 365 and multiplied by the number of days in which they were in operation.

Regulation 150-952. Payment of tax.

Any person doing business within the city shall pay an initial occupational license tax on or before the day business begins.

Annually, thereafter, the license tax is due and payable on January 1 of each calendar year. The tax becomes delinquent on March 1, and subject to interest and penalties. Delinquent interest and penalties shall be computed from March 1 of the year due until paid.

In cases which involve initial [payment], it should be noted that the relief provided for under this section is only applicable during the periods of January first through the last day of February. The provisions of this section shall not apply to flat fee or per unit licenses. The rationale behind this is that these licenses are not based on gross sales or receipts and therefore, are not subject to proration.

(Code 1956, § 70-2; Ord. No. 19,937, § I, 12-1-00)

State law reference— *Similar provisions, R.S. 47:343.*

Sec. 150-953. - New business; license due upon commencement.

No person shall commence any business within the city without first paying a tentative license tax and after obtaining the approval of the department of safety and permits. Within 40 days after commencing the business, each person shall compute in the manner provided by section 150-957 the balance of the license tax, if any, owed for the year in which the business is started and pay such tax balance. When the business is begun prior to July first of any year, the tentative tax shall be the minimum annual rate for the particular class of business in cases in which the tax is based on gross receipts, sales, fees, premiums or commissions, or the full annual rate in cases in which the tax is based on a specific amount per unit. When the business is begun on or after July first of any year, the tentative tax shall be one-half of the minimum annual rate or the specific amount per unit, as the case may be.

(Code 1956, § 70-3; Ord. No. 19,937, § I, 12-1-00)

State law reference— *Similar provisions, R.S. 47:344.*

Sec. 150-954. - Change of ownership or lessee.

- (a) The license is issued in the name of the person making application and paying the initial fee and is not transferable or assignable. If at any time during the license year a change of ownership takes place, the license period is from January first, to the date of sale or change of lessee. A "change of ownership" occurs when a business is sold or leased, and does not include changes in partnership or corporation shares.
- (b) The new owner or lessee shall obtain another business license, as the license issued to the former owner or lessee is not transferable or assignable. The license period for the new owner or lessee covers the date of transfer of ownership or lease to December thirty-first of the license year. The collector shall be notified within ten days when a change is effected.

(Code 1956, § 70-4; Ord. No. 19,937, § I, 12-1-00)

State law reference— *Similar provisions, R.S. 47:345.*

Sec. 150-955. - Separate license required for each location, based on primary class of business.

Except as otherwise provided in this article, only one license shall be required for each place of business, and the license shall be based upon the classification of business which constitutes the major portion of the taxable annual gross sales and receipts. However, any person operating coin vending or weighing machines shall obtain only one license, regardless of the locations of the machines. However, a separate license shall be required for hotels, motels, rooming houses, and boarding houses. Such license shall be in addition to the license required if other classes of business are operated in conjunction with the hotel, motel, rooming house, or boarding house.

Regulation 150-955. Separate license required for each location, based on primary class of business.

For purposes of this section, the phrase "each place" (of business) shall have the same meaning and guidelines set forth under section 150-951(11) for "separate location". A separate location or place of business exists unless all of the following conditions are met:

- (1) *There exists a similar or associated type of business,*
- (2) *Operated, as related to the initial concern, as a unit, and*
- (3) *Located under a single roof or on the same contiguous tract of land.*

In addition to these guidelines, it should be noted that common ownership must exist, as this is the basis of the imposition of the tax. The license tax is imposed upon the "person" as defined under section 150-951(9), and the provisions for separate location are intended only to determine the number of licenses required to be obtained by each "person" commencing business.

This section also provides for operators of coin operated vending machines or weighing machines to obtain only one license regardless of the location of said machines. This does not cover amusement devices which are subject to license taxes set forth in section 150-969(d) of this article.

A separate license, however, will be required for hotels, motels, rooming houses, and boarding houses who operate other classes of businesses in addition to providing sleeping rooms to their guests. Clearly, by illustration, this suggests that these specified establishments who operate restaurant(s), lounge(s), etc. would be required to obtain a separate license for these classes of business. Be mindful, however, that in a situation where such an establishment would conduct a restaurant and lounge in conjunction with their hotel, motel, rooming house or boarding house operation, that one license would cover both the restaurant and the lounge activity since both are similarly classified for occupational license purposes. They would not be required to have separate licenses for the restaurant and for the lounge unless ownership were different or they were not operated under a single roof or on the same parcel of property.

(Code 1956, § 70-5; Ord. No. 19,937, § I, 12-1-00)

State law reference— *Similar provisions, R.S. 47:346.*

Sec. 150-956. - Class of business.

In order to calculate the license fee for a business location at which business activities are carried on that fall under more than one tax basis schedule, gross receipts, fees, or commissions for each group of activities falling under each schedule must be compared. The rate for the schedule which constitutes the major portion of the gross receipts, fees, or commissions will be used. However, the total gross receipts, fees, or commissions for all business activities carried on at the business location, minus any applicable deductions, are applied to the schedule to compute the fee.

Regulation 150-956. Class of business.

By way of illustration but not limitation, a dealer with annual retail sales of \$100,000.00 and annual wholesale sales of \$50,000.00 would purchase one license based on gross receipts of \$150,000.00 under the retail table.

(Code 1956, § 70-6; Ord. No. 19,937, § I, 12-1-00)

State law reference— *Similar provisions, R.S. 47:347.*

Sec. 150-957. - Period used where gross receipts are the measure of the license.

- (a) The basis for determining the amount of the annual licenses provided by this article, where the license is measured by gross receipts shall be as follows:
- (1) If the business has been conducted previously by the same party, the annual gross receipts, gross fees, or gross commissions earned, whether received or accrued, during the preceding calendar year for which the license is issued shall be the basis for determining the amount of the annual license.
 - (2) If the business is begun during the calendar year for which the license is issued, the license for the year of commencement shall be based on the gross receipts, gross sales, gross premiums, gross fees, or gross commissions earned, regardless of whether received or accrued, during the first 30 days of business, multiplied by the number of months, or major fraction thereof remaining in the calendar year; however, any business which opens after June thirtieth of the year in question whose estimated gross receipts for the remainder of the year are less than one-half of the maximum gross revenue allowed in the minimum rate under the classification of the particular business, shall pay for the remainder of the year at one-half the minimum rate.
 - (3) If the business is begun less than 30 days before the end of the calendar year for which the license is to be issued, the tax shall be based on the gross receipts, gross sales, gross premiums, gross fees, or gross commissions earned, regardless of whether received or accrued, during the calendar year; however, one-half of the annual rate shall apply to such businesses whose gross receipts for the period operated during the calendar year is less than one-half of the maximum gross revenue allowed in the minimum rate under the classification of the particular business.
 - (4) The license tax of the business for the calendar year following that of commencement shall be based on the gross receipts, gross sales, gross premiums, gross fees, or gross commissions earned, regardless of whether received or accrued, during the previous year, divided by the number of days in operation during the year of commencement, and multiplied by 365.
- (b) The date of beginning business for the purposes of this article shall depend upon the type of business involved, and shall be governed by regulations promulgated by the director of the department of finance according to law.

Regulation 150-957(b). Period used where gross receipts are the measure of the license.

The term "date of beginning business," for the purpose of calculating the license tax, shall be defined as follows:

- (1) *Tentative date of beginning business.*

The taxpayer shall furnish to the collector the date on which the business is anticipated to begin and shall pay the tentative tax; if no date is given, the date of application shall be used.

- (2) *Actual date of beginning business.*

The date that the business is considered to have actually begun shall be contingent upon one of the following conditions:

- a. *The date on which sales and/or services facilities are fully operational and available to the customer, or*
- b. *The date on which loans are made, if in the business of lending or dealing in notes, or*
- c. *The date on which commissions or fees are earned, if in the business as a broker or commission agent, or*

- d. *The date on which contracts were entered into, if in business as a contractor.*

(Code 1956, § 70-7; Ord. No. 19,937, § I, 12-1-00)

State law reference— *Similar provisions, R.S. 47:348.*

Sec. 150-958. - Taxpayers required to keep records; confidentiality.

- (a) In general, each person shall keep a reasonable record of his gross receipts, gross fees or commissions, or loans made. This record shall be kept separately for each place of business, and shall be subject to examination and inspection by the collector or his duly authorized assistants.
- (b)
 - (1) Except as otherwise provided by law, the records and files of the collector or the records and files maintained pursuant to a tax ordinance, excluding ad valorem property taxes and ad valorem property tax assessment rolls, are confidential and privileged, and no person shall divulge or disclose any information obtained from such records and files except in the administration and enforcement of the tax laws of this state or of the city.
 - (2) No person shall divulge or disclose any information obtained from any examination or inspection of the premises or property of any person in connection with the administration and enforcement of the tax laws of this state or the city except to the taxing jurisdiction of his employment or, in the case of an already existing independent contractor arrangement, to the city.
 - (3) Neither the collector nor any employee engaged in the administration or charged with the custody of any such records or files shall be required to produce any of them for inspection or use in any action or proceeding, except in an action or proceeding in the administration or enforcement of the tax laws of this state or of the city.
 - (4) Any officer, employee, or agent or any former officer, employee, or agent of the city who unlawfully discloses any information obtained from a return of a taxpayer or records and files of the collector, contrary to the provisions of this section, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000.00 or be imprisoned for not more than two years, or both.
 - (5) Nothing contained in this section shall be construed to prevent such persons from disclosing a return of a taxpayer or the records of the secretary as authorized by law in any judicial proceeding in which the state or the city thereof is a party.

(Code 1956, § 70-8; Ord. No. 19,937, § I, 12-1-00)

State law reference— *Similar provisions, R.S. 47:349.*

Sec. 150-959. - Application for licenses.

- (a) Every person subject to a license tax levied by this article shall apply to the collector for a license before the same becomes delinquent, as provided in this article. The application shall state all facts necessary to determine the amount of taxes due under this article.
- (b) If the collector is not satisfied with the facts set forth in the application or for any reason desires to audit the books and records of the taxpayer, the collector or any of his authorized assistants may audit and inspect all records of the taxpayer that would have any bearing upon the amount of taxes due under this article.

- (c) If an individual is an applicant for a license required by this article, the applications must be signed by him; if a partnership or an association of persons, by a member of the firm; and if a corporation, by the proper officer thereof.
- (d) Any intentional false statement as to any material facts in the application for a license under this article shall constitute a misdemeanor, and any person convicted thereof shall be fined not more than \$200.00, or imprisoned for not more than six months, or both.

(Code 1956, § 70-9; Ord. No. 19,937, § I, 12-1-00)

State law reference— *Similar provisions, R.S. 47:349.1.*

Sec. 150-960. - Failure to pay tax; judgment prohibiting further pursuit of business.

Failure to pay the tax levied by this article shall ipso facto, without demand or putting in default, cause the tax, interest, penalties, and costs to become immediately delinquent, and the collector is hereby vested with authority, on motion in a court of competent jurisdiction, to take a rule on the delinquent taxpayer to show cause in not less than two or more than ten days, exclusive of holidays, why the delinquent taxpayer should not be ordered to pay the total amount due and owing under this article. This rule may be tried out of term and in chambers and shall always be tried by preference. If the rule is made absolute, the order therein rendered shall be considered a judgment in favor of the city.

(Code 1956, § 70-10; Ord. No. 19,937, § I, 12-1-00)

State law reference— *Similar provisions, R.S. 47:351.*

Sec. 150-961. - Collector authorized to make rules and regulations.

- (a) The collector shall make and enforce all rules and regulations necessary for the proper, complete, and equitable collection of the tax levied by this article. He may adopt different rules and regulations and forms for different classes or kinds of businesses, uniform as to each class, if by so doing the collection of the full amount of taxes due under this article may be simplified and made more certain.
- (b) The collector may make and publish reasonable rules and regulations, not inconsistent with law, for the enforcement of the provisions of this article and collection of the revenue hereunder.

(Code 1956, § 70-11; Ord. No. 19,937, § I, 12-1-00)

State law reference— *Similar provisions, R.S. 47:351.*

Sec. 150-962. - Records to be kept by collector.

The collector shall keep an accurate record showing the names of every person paying taxes under this article, together with the business pursued, the amount of the license, the date of the collection, and the payment thereof.

(Code 1956, § 70-12; Ord. No. 19,937, § I, 12-1-00)

State law reference— *Similar provisions, R.S. 47:353.*

SPECIAL EVENT TEMPORARY ALCOHOLIC BEVERAGE OUTLETS

Sec. 10-52. - Special events permits.

- (a) Except as provided in subsection (c) of this section, the director of the department of finance or his designee may, upon presentation of a letter signed by a member of the city council, authorize the issuance of alcoholic beverage permits for special events not covered by section 10-2, such as fairs, picnics and other social events sponsored by a person, corporation or organization when such functions will not continue for a period in excess of three days. The department of finance may issue an alcoholic beverage permit or permits to the applicant named in the letter notwithstanding any ordinance or moratorium to the contrary upon payment, if applicable, of the alcoholic beverage permit fee specified in this section. If a letter from a member of the council is unavailable, the director of the department of finance or his designee may authorize the issuance of the special event alcoholic beverage permit if the director or his designee determines, after communication with appropriate agencies of city government, that the special event will not adversely affect traffic flow, parking in the affected area, or public safety.
- (b) The fees for permits issued pursuant to this section, including all processing fees, shall be as follows:
 - (1) Sale of beverages of low alcoholic content\$135.00
 - (2) Sale of beverages of high alcoholic content500.00
 - (3) Sale of beverages of high and low alcoholic content635.00
 - (4) Free distribution of alcoholic beverages at picnics or other special eventsNo charge
 - (5) Alcoholic beverage permit processing fee250.00

Any alcoholic beverage permit for a special event issued in accordance with this section shall be valid only for the dates, times and locations authorized by the letter which may also authorize alternative dates, times or locations in anticipation of inclement weather or other circumstances. The fees specified in this section shall not apply to nonprofit organizations granted permission to sell alcoholic beverages pursuant to section 10-2.

- (c) During the Mardi Gras season, as defined in section 34-216, a special event alcoholic beverage permit may only be issued by the director of the department of finance upon presentation of an adopted motion of the city council authorizing the issuance of the permit. It is the policy of the council not to approve special event permits during the Mardi Gras season if the event appears to be intended to capitalize on parade or carnival crowds. If the city council meeting schedule does not provide sufficient time for councilmanic action by council motion as required herein, for special events held during the Mardi Gras season authorization for the issuance of an alcoholic beverage permit for a special event may be granted in writing by the director of the department of finance. A copy of any such authorization shall be submitted to the council and the chief administrative officer by the director.

(Code 1956, § 5-3.1; Ord. No. 20,025, § 1, 2-1-01; Ord. No. 20,081, § 1, 3-15-01)

Cross reference— *Mayorality permits, § 30-66 et seq.; carnival, Mardi Gras, ch. 34.*

Sec. 10-2. - Application to clubs, fairs, etc.; exemption of charitable organizations.

- (a) The provisions of this chapter shall apply to all public picnics, public fairs and public celebrations. However, the director of the department of finance or his designee may upon presentation of a letter signed by a member of the city council grant permission to any hospital, church or exclusively charitable organization to sell or serve alcoholic beverages for a public fair, public picnic or public celebration. The

letter shall state the name of the organization, the place, the date, and time for the public event. For purposes of this section, a nonprofit organization shall be one which is registered with the secretary of state as a nonprofit organization or one which qualified as a nonprofit organization under 26 U.S.C. 501 (c).

- (b) Except for city property known as Edison Park, located at municipal address 311 Bourbon Street, this section shall not apply during the Mardi Gras season, as defined in section 34-216. Any such temporary alcoholic beverage permit fee waiver shall be granted to a nonprofit organization for a duration of three consecutive days only and no more than 12 such permits may be issued to any one organization within a single calendar year. Another letter shall be required in cases of inclement weather rescheduling. If a letter from a member of the council is unavailable, the director of the department of finance or his designee may in writing grant permission for the waiver of the alcoholic beverage permit fee if the director or his designee determines, after communication with appropriate agencies of city government, that the special event will not adversely affect traffic flow, parking in the affected area, or public safety.

(Code 1956, § 5-3; M.C.S., Ord. No. 21428, § 1, 2-19-04; M.C.S., Ord. No. 23276, § 1, 11-6-08)